

Public Comment on Draft Tier 3 Rulemaking and Road Construction Jurisdiction Guidance

To: Vermont Land Use Review Board · Act250.Comments@vermont.gov

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1. Who We Are and Why We Are Commenting

We are Lucas Farrell and Louisa Conrad, co-owners of Big Picture Farm in Townshend, Vermont — a working goat dairy and artisanal confectionery business enrolled in Vermont’s Current Use program. We live and work in the West River valley, Windham County, in the Southern Vermont Piedmont biophysical region, within Vermont’s highest priority wildlife corridor. Our neighbors’ farms and forests are enrolled in Current Use. The landscape that frames our daily life and our children’s sense of place has been held together for decades by the voluntary stewardship compact that is Vermont’s Use Value Appraisal program.

We are commenting because the draft Tier 3 maps, as currently written, apply Act 250 jurisdiction to enrolled working lands without distinguishing them from genuinely unprotected land. We have conducted a spatial analysis of Vermont’s highest priority wildlife corridor using ANR’s own public datasets. The findings are significant and we believe they should materially inform the Board’s rulemaking decisions.

This comment asks the Board to draw its maps with the precision that both the data and Vermont’s enrolled stewardship community deserve. Our analysis identifies two distinct populations within the at-risk corridor land — each with a different risk profile, a different socioeconomic character, and a different appropriate instrument. We ask the Board to apply each instrument to the population it fits: Tier 3 regulation where development pressure is real and no stewardship relationship exists; a voluntary enrollment pathway where the land is working lands in character and the 44-year track record of Current Use shows the voluntary compact is the right tool.

2. Why Enrollment Data Isn’t in the Map — and Why It Should Be

When we looked at the draft Tier 3 maps, our enrolled land appeared inside the corridor boundary identically to unprotected land. That prompted a straightforward question: does the data underlying these maps account for Current Use enrollment at all? The answer, as confirmed by the official Tier 3 map viewer methodology and by the VCD technical documentation, is no. The Tier 3 habitat connector areas are derived from VCD Highest Priority Connectivity Block designations and highest priority wildlife road crossing segments — both of which are based purely on ecological condition: land cover, fragmentation, and connectivity. Protection status, ownership type, and enrollment status are not inputs to the methodology. A permanently conserved parcel inside a connectivity block and an unprotected parcel inside a connectivity block are treated identically. So is an enrolled Current Use parcel.

This is not a flaw in the ecological science. The VCD was designed to identify where ecological function exists, not to audit who is maintaining it. The block designations reflect what the landscape looks like, not what commitments its owners have made. But when those designations become the basis for a regulatory map — one that determines who is subject to Act 250 jurisdiction — the absence of enrollment data stops being a methodological footnote and becomes a substantive problem. The VCD Highest Priority Connectivity Blocks were designated based on ecological quality and size within each biophysical region — a smaller block in the Champlain Valley can qualify as Highest Priority because large intact blocks are relatively rare there, while only the largest and most ecologically significant blocks qualify in the Green Mountains. The blocks were not designated based on protection status. `cons_pct` — the permanent conservation coverage field in the block data, labeled “% PERM. CONS.” in ANR’s map service — was a separate threat assessment tool applied alongside the ecological quality ranking, not the driver of which blocks were designated Highest Priority. When LURB adopted these block designations as the basis for Tier 3 maps, it inherited an ecological quality map. The critical step that was never performed: determining which ecologically valuable land within those blocks actually lacks stewardship protection and therefore needs regulatory intervention. ANR’s own `cons_pct` field shows a weighted average of 36.8% permanently conserved across the 433 highest priority blocks. Our spatial analysis adds the Current Use enrollment layer that the ecological quality framework was never designed to incorporate, and finds that 73.0% of the corridor is already enrolled or permanently conserved. The 36-percentage-point gap between those two

figures is not a data error. It is the enrolled working lands the ecological quality framework was never designed to see. That gap is now visible — and the data needed to act on it exists.

The VCD was designed as a conservation planning vision, not a regulatory instrument. It was built to answer the question: where are the ecological resources that matter most, and where should conservation investment be directed? For that purpose the methodology was exactly right — map ecological condition, identify highest priority areas, locate the blocks and corridors that need attention. But a regulatory map must answer a different question: where is unprotected land that needs regulatory intervention because no other instrument is already providing protection? Those are different questions with different data requirements. The VCD methodology is well-designed for the first. It was never designed for the second. When LURB adopted the VCD framework as the basis for the Tier 3 maps, it inherited a planning methodology without performing the additional analytical step that converting a planning map into a regulatory instrument requires — specifically, the step of determining which corridor land actually lacks the stewardship protection that regulation would otherwise provide. That is the step your comment asks the Board to perform before the May draft is finalized.

There is a further irony embedded in the statute itself. Under 10 V.S.A. §6001(47), Act 181 defines a habitat connector as land allowing “the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes” — and explicitly includes “improvements constructed for farming, logging, or forestry purposes” as part of that definition. The statute recognizes, in its own language, that working lands activities are compatible with and indeed constituent of corridor function. Yet the maps derived from that statutory framework treat enrolled working lands — the parcels actively performing farming and forestry in the corridor — identically to unprotected land with no stewardship relationship with the state. The methodology cannot see enrollment. But the statute already knew it was there.

3. The Core Finding: 73% of the Corridor Is Already Enrolled or Conserved

Vermont’s highest priority wildlife corridor — the Vermont Conservation Design (VCD) Highest Priority Connectivity Blocks, 433 blocks covering 2,837,622 acres, which is the primary biophysical input to the Tier 3 habitat connector maps — is not unprotected land. The actual Tier 3 footprint is a subset of these blocks, defined by proximity to highest priority wildlife road crossing segments; however, the draft Tier 3 map was not released as a downloadable GIS layer, making the full connectivity blocks layer the best available public data for corridor-scale analysis. Our findings describe the stewardship status of the ecological foundation that Tier 3 draws from. Our spatial analysis, described in full in Section 4, produces the following verified findings:

73.0% of corridor land area is already enrolled or permanently conserved — 2,072,617 acres — source: QGIS Difference spatial operation

27.0% of corridor land area is genuinely at risk — 765,005 acres — neither enrolled nor conserved

2.7:1 ratio of managed to at-risk corridor acres — for every 1 at-risk acre, 2.7 acres are already stewarded

28,481 distinct parcels touch at-risk corridor land — source: four-way parcel classification via SPAN/POLYID joins

Tier 3, as currently drafted, applies to 100% of the corridor’s 2,837,622 acres. For every 1 acre that genuinely needs regulatory attention, Tier 3 regulates 2.7 acres that are already being stewarded voluntarily or permanently protected.

The 36-percentage-point gap between ANR’s own cons_pct figure (36.8% permanently conserved) and our 73% enrolled-or-conserved figure is not a data error. It is the direct consequence of building Tier 3 maps on block designations derived from an ecological quality framework that was never designed to incorporate enrollment status. The VCD methodology identifies where corridor function exists and which blocks are most ecologically significant — not who is maintaining them or which land lacks stewardship protection. Converting that ecological quality map into a regulatory instrument without asking which ecologically valuable land actually needs regulatory protection is the design problem at the heart of the current draft.

The corridor is not failing. It is being held by enrolled working lands families who are not being counted in Vermont's conservation accounting — and who are now at risk of being regulated as if their stewardship does not exist.

4. Methodology

All data sources are publicly available. The analysis was conducted in QGIS 3.44. We welcome scrutiny of the methodology and are prepared to share our full QGIS project files with the Board or ANR upon request.

4.1 A Note on Acreage Figures

Two different acreage figures appear in this comment and it is important to understand what each measures:

- 765,005 acres at risk (27.0%) — from the QGIS Difference spatial operation. This subtracts the actual enrolled and conserved geometry from the corridor geometry and measures the remaining land area. This is the most accurate measure of at-risk corridor land area. We use this figure for all acreage arguments.
- 28,481 parcels — from the four-way parcel classification via SPAN and POLYID attribute joins. This counts distinct ownership units that touch at-risk corridor land. ACRESGL sums from this classification overstate area because full parcel sizes are used rather than clipped corridor portions, and should not be used as acreage figures. We use this figure only for ownership and demographic analysis.

The parcel classification and the spatial Difference measure different things and are both valid for their respective purposes. We are explicit throughout this comment about which source each figure comes from.

4.2 Data Sources

Dataset	Source	Date	Key Fields Used
Vermont Highest Priority Connectivity Blocks (VCD)	ANR / VCGI Open Geodata Portal	Downloaded Feb. 2026	acres, cons_pct, avg_parcsz, threatrcl, biophysreg
Use Value Appraisal (UVA) Parcel Layer	Vermont Dept. of Taxes / ANR Geodata Portal	Updated Jan. 2026	SPAN, ACTIVE, ENTRYYEAR, PRGMAC, EXCLUDAC
Vermont Protected Lands Database (VPLD)	VCGI	Updated Feb. 2026	POLYID, PTYPE1, ACT59CAT, GISACRES
Vermont Statewide Parcels (Grand List-Joined)	VCGI Parcel Program	2025 data year	SPAN, OWNER1, RESCODE, ACRESGL, LAND_LV, REAL_FLV
Current Use Acreage Enrolled by Year	Vermont Dept. of Taxes, PVR Annual Report 2024	Published Jan. 2025	Total Acres 1980–2024
VCGI Current Use Program Properties	VCGI / VT Dept. of Taxes Open Geodata Portal	Published Apr. 1, 2026	SPAN, CU enrollment status (forestry/agriculture/reserve)

4.3 Analysis Steps

Step 1 — Geometry Repair

Fix Geometries was applied to all input layers in QGIS prior to any spatial operations, resolving self-intersections in the government-sourced shapefiles without altering substantive geometry.

Step 2 — Spatial Difference (at-risk acreage)

The dissolved union of the fixed UVA enrolled parcels layer and the fixed VCGI Protected Lands layer was subtracted from the fixed VCD corridor blocks using QGIS Vector > Geoprocessing Tools > Difference. The resulting geometry represents corridor land not covered by any enrolled or conserved polygon. The diff_acres

field (summed: 765,005 acres) is the at-risk land area figure used throughout this comment. This operation was run on all 433 corridor blocks; results are in difference2.csv.

Step 3 — Corridor Clip and Four-Way Parcel Classification

The statewide grand list parcel layer was clipped to the VCD corridor boundary, yielding 58,013 corridor parcels. Two sequential Join Attributes by Location operations were run: first joining to the UVA layer (ACTIVE='A' enrolled parcels, matched via SPAN), then joining to the VCGI Protected Lands layer. Each parcel was classified into one of four categories: (1) both enrolled AND conserved; (2) enrolled only; (3) conserved only; or (4) neither. Results are in attributesjoin CSV.

Step 4 — Tenure Analysis

ENTRYYEAR from the UVA dataset was used to calculate enrollment tenure (2026 minus ENTRYYEAR) for enrolled-only corridor parcels specifically — those with no VCGI match — to isolate purely voluntary durability from legally compelled permanence. Parcels with ENTRYYEAR outside 1970–2026 were excluded as data errors.

Step 5 — At-Risk Parcel Profile

Neither-category parcels were analyzed for size (ACRESGL), residency (RESCODE), ownership type (keyword classification from OWNER1), and land value (LAND_LV, REAL_FLV per acre). Note: ACRESGL figures here describe individual parcel sizes for demographic analysis, not total at-risk corridor area.

Known Limitations

- The Difference operation (Step 2) is the authoritative acreage figure. It may slightly undercount at-risk area if any enrolled or conserved polygons extend beyond actual land use (e.g., road rights-of-way) but this effect is small.
- Approximately 286 UVA records did not match corridor parcels due to SPAN formatting differences — a 3.7% gap that does not materially affect findings.
- Owner type classification from OWNER1 is keyword-based and may misclassify some family LLCs holding working farmland.
- Enrollment tenure reflects ENTRYYEAR; parcels that withdrew and re-enrolled show the re-enrollment year, potentially understating actual stewardship tenure for some families.

5. Four-Way Corridor Parcel Classification

Category	Parcels	% of Parcels	Note on Acreage
Both enrolled AND conserved	6,413	11.1%	Deed-restricted + voluntarily enrolled
Enrolled only — no easement	17,365	29.9%	Voluntarily enrolled, no deed restriction
Conserved only — not enrolled	5,754	9.9%	Permanently conserved, not enrolled
NEITHER — genuinely at risk	28,481	49.1%	765,005 acres (spatial) — see Section 4.1
Total corridor parcels	58,013	100%	2,837,622 corridor acres (VCD geometry)

Parcel counts from four-way classification. Acreage for at-risk land: 765,005 acres from QGIS Difference spatial operation. ACRESGL sums per category overstate area and are not reported here as acreage figures.

The enrolled-only category — 17,365 parcels held by nothing but the annual voluntary choice to stay enrolled — is the most consequential finding in this analysis. This land functions ecologically as corridor habitat, has been stewarded for decades without legal compulsion, and is invisible to Vermont's 30x30 accounting because Act 59 requires permanence. It is the land on which the Tier 3 map imposes Act 250 jurisdiction without any recognition of its stewardship status.

6. The Durability of Enrolled Working Lands: Three Measures

6.1 Tenure of Enrolled-Only Corridor Parcels

We analyzed ENTRYYEAR for the 17,365 enrolled-only corridor parcels — those with no conservation easement — measuring voluntary durability independent of legal compulsion. PRGMAC (program acres) from the UVA dataset was used for acreage weighting. Total analyzed: 611,537 program acres with valid entry years.

53.7% of enrolled-only corridor program acres enrolled 20+ years — 328,168 acres — no legal obligation to stay

25.1% of enrolled-only corridor program acres enrolled 30+ years — 153,450 acres enrolled since before 1996

2008 median entry year for enrolled-only corridor parcels — vs. 2006 for enrolled+conserved parcels — a 2-year difference

The two-year difference in median entry year between enrolled-only and enrolled-and-conserved parcels is significant. It demonstrates that easement-backed parcels are not dramatically older stewardship relationships. They are simply parcels that conservation organizations have gotten to. The voluntary durability of enrolled-only corridor land is nearly identical to the durability of permanently conserved land. What differs is the legal instrument, not the stewardship reality.

6.2 Statewide Enrollment Trend, 1980–2025

The Vermont Department of Taxes publishes Current Use Acreage Enrolled by Year in the PVR Annual Report (source: AcreageEnrolledCU2024.xlsx, published January 2025). The 2025 tax year figures cited below are from the VCGI Current Use Program Properties dataset published April 1, 2026 (<https://geodata.vermont.gov/datasets/VCGI::vt-data-current-use-program-properties/about>). The 44-year statewide record is unambiguous:

44 consecutive years of growth in total enrolled acreage — not a single year of net decline since program inception in 1980

2,587,956 enrolled acres statewide (2025 tax year) — up from 119,900 acres in 1980 — a 21-fold increase

19,821 enrolled parcels statewide (2025 tax year) — up from 13,640 in 2005 when parcel tracking began

Critically: voluntary withdrawal without development triggers no Land Use Change Tax. Owners can leave the program at any time at zero cost. They do not leave. Forty-four consecutive years of growth in a program with no exit penalty is the empirical definition of durability.

6.3 National 30x30 Comparison

Vermont is the only major 30x30 state that explicitly excludes long-term voluntary enrollment programs from its conservation accounting, despite having the most extensive state-administered voluntary working lands enrollment program in the northeastern United States — one covering more than a third of Vermont's entire land base. The contrast with comparable frameworks is stark:

Framework	Working Lands Counted?	Commitment Required
California 30x30 (Exec. Order N-82-20, 2020)	Yes — GAP status 2 working ranches managed for biodiversity	Management commitment, no fixed term
New Mexico 30x30 (Exec. Order 2021-052)	Yes — 'traditionally managed condition' explicitly included	Ongoing traditional management

Federal America the Beautiful (2021)	Yes — USDA CRP enrollments counted	10–15 year voluntary contracts, \$78/acre/year
Vermont Act 59 (2023)	No — permanence required; enrolled working lands excluded	In perpetuity deed restriction only

The federal Conservation Reserve Program pays landowners \$78 per acre annually for 10-to-15-year voluntary contracts and counts toward America the Beautiful’s working lands accounting. Vermont Current Use provides only a tax benefit for an annual voluntary commitment with no payment and no contract. CRP counts. Current Use does not.

The Board should understand what this comparison means for the maps it is finalizing. In every comparable framework, the enrolled working lands inside the Tier 3 corridor would be recognized as conservation-contributing land — not as unprotected land requiring regulatory intervention. The Tier 3 maps as currently drafted apply Act 250 jurisdiction to land that the federal government’s own America the Beautiful framework would count as conserved, that California’s 30x30 program would count as durably protected, and that New England’s most experienced conservation institutions manage as working forest. The question is not whether enrolled Current Use land meets a conservation standard. Every comparable standard says it does. The question is whether the Board’s maps should reflect that reality — and the data now exists to make that correction.

7. Profile of the Genuinely At-Risk Corridor Land

The 765,005 at-risk corridor acres are not uniform in character. The 28,481 parcels that touch this land divide into two distinct groups with different risk profiles and different appropriate policy responses. Note: parcel-level ACRESGL figures below describe individual parcel sizes for demographic analysis; they do not sum to the 765,005-acre spatial at-risk figure.

7.1 Sub-25-Acre Parcels: Development Pressure, High Land Value

90.5% of at-risk parcels — 25,773 parcels — are below the 25-acre Current Use enrollment minimum. These have no pathway into voluntary stewardship regardless of owner intent. Their assessed land values reflect genuine development pressure:

\$12,664 average land value per acre — sub-25-acre at-risk parcels — vs. \$1,483/acre for enrolled corridor land

\$11,221 median land value per acre — reflecting residential and recreational development premium

\$8.0B total assessed real value of sub-25-acre at-risk corridor land — overwhelmingly residential and vacation properties

Top towns by average land value per acre confirm the geographic concentration of genuine development pressure:

Town	At-Risk Parcels	Avg Land Value/ac	Out-of-State %	Profile
Stowe	852	\$95,398	45%	Resort / vacation
Ludlow	589	\$48,912	87%	Resort / absentee
Dorset	322	\$40,169	28%	High-value amenity
Manchester	141	\$34,864	28%	Resort / commercial
Dover	479	\$28,000+	74%	Resort / absentee
Stratton	371	\$22,000+	85%	Resort / absentee

Killington	835	\$18,000+	75%	Resort / absentee
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This is the population where Tier 3 is most appropriate and most defensible. High land values, significant absentee ownership, no stewardship relationship with the state. If the Board’s mapping criteria were calibrated to this population — using land value per acre and out-of-state ownership rates alongside biophysical criteria — the map would be more precise, more effective, and more legally defensible.

7.2 Parcels of 25+ Acres: A Voluntary Pathway Should Exist

2,708 at-risk parcels are 25+ acres — eligible for Current Use today — 168,450 ACRESGL acres — could enroll without new legislation

1,537 of those are in-state Vermont residents — 91,390 acres — the most actionable near-term opportunity

These parcels are eligible for Current Use enrollment today and have not enrolled. Before applying Tier 3 jurisdiction to this population, the Board should consider whether enrollment barriers exist — recent acquisitions, estates in transition, owners unaware of the program. A targeted outreach effort to these 1,537 in-state owners could bring 91,390 corridor acres into voluntary stewardship without any new regulation or legislation.

The appropriate long-term instrument for this population is a new third forestland enrollment category within Current Use — a Wildlife Corridor Forestland category that requires a stewardship plan oriented toward ecological function rather than timber production. This is outside LURB’s direct authority to create, but it is within the Board’s authority to recommend in its rulemaking report to the Legislature.

7.3 Residency of At-Risk Parcels

Residency	Parcels	% of At-Risk Parcels	Character
In-state resident (RESCODE: T)	16,168	56.8%	Vermont families, mostly sub-25-acre, no enrollment pathway
Out-of-state (RESCODE: NS)	7,484	26.3%	Absentee owners, concentrated in resort corridors
State / Government (RESCODE: S)	2,403	8.4%	Public land not otherwise conserved
Exempt / Conservation (RESCODE: C)	1,297	4.5%	Conservation orgs, exempt entities

56.8% of at-risk corridor parcels are held by in-state Vermont residents. The majority of the at-risk population is not absentee speculators — it is Vermont families holding small parcels below the Current Use threshold with no enrollment pathway available to them. Tier 3 imposed on this population, without a voluntary stewardship alternative, produces regulatory burden without conservation outcome and erodes the landowner trust that makes Vermont’s voluntary stewardship system function.

7.4 The Regulatory Burden Falls on the Wrong Communities

The Tier 3 maps apply uniform jurisdiction across the full 2,837,622-acre corridor without distinguishing between two fundamentally different communities within it. The data in Sections 7.1 through 7.3 makes that distinction visible.

The sub-25-acre high-value parcel population — where Tier 3 jurisdiction is most appropriate and most defensible — is concentrated in high-growth resort and amenity communities. Stowe averages \$95,398 per acre with 45% out-of-state ownership. Ludlow averages \$48,912 per acre with 87% out-of-state ownership. Dover, Stratton, and Killington show similar profiles. These communities have high land values, development pressure oriented toward residential and recreational built environments, established familiarity with Act 250 review, and ownership concentrated among well-capitalized absentee investors for whom permitting costs are a manageable transaction

expense. This is the population Act 250 was designed for. The Tier 3 map reaches it — but only as part of a 2,837,622-acre jurisdictional footprint that sweeps in nearly everything else.

The enrolled working lands population — the 23,778 corridor parcels where Tier 3 burden lands without conservation return — is concentrated in a different kind of community. Townshend recorded 37 deaths and 12 births in 2025 (Town of Townshend Annual Report, Town Meeting Day 2026). Moretown, Cabot, and other towns that have raised similar concerns with the Board share similar demographic profiles: slow-growth, aging, with working forestry economics already under pressure from timber market volatility, rising management costs, and the structural challenge of intergenerational succession. In these communities, a family’s enrolled forestland is not a speculative asset. It is the primary collateral for farm operating loans, the financial foundation for succession planning, and often the only thing making continued stewardship economically viable.

The regulatory asymmetry this produces is not incidental. Vermont is not at risk of its enrolled working forests being developed by willing sellers who want to cash out. The threat to the corridor in slow-growth working communities is the unwilling seller — the working family that never planned to develop, enrolled in Current Use precisely to keep the land forested, but whose economic margin is thin enough that additional regulatory burden tips the balance. That family doesn’t withdraw because they want to. They withdraw because they have no choice. And when they do, Vermont loses an enrolled steward who was maintaining the corridor voluntarily for decades, and gains an unprotected parcel — exactly the outcome the Tier 3 maps were designed to prevent.

The causal chain is well documented and runs in one direction: viable forest economics keep landowners enrolled; enrolled landowners keep land forested; forested land produces the conservation outcomes the corridor is meant to protect. A regulatory instrument that adds cost and uncertainty to working forestland operations in communities where margins are already thin disrupts the first link in that chain. A conservation policy that makes active forest management economically unviable does not produce more conservation. It produces more development — from the families least equipped to absorb the burden and most dependent on the voluntary compact to survive.

The Board’s mandate is to protect critical natural resources. The data shows that the critical natural resource in Vermont’s slow-growth working communities is not an unprotected landscape at risk of development. It is a working family compact with the state, built over decades, that keeps the landscape intact through voluntary stewardship rather than regulatory constraint. Tier 3 as currently drafted burdens that compact without strengthening it. A more precisely drawn map — one that concentrates jurisdiction on the genuinely at-risk parcels where development pressure is real and no stewardship relationship exists — would protect the corridor more effectively and preserve the voluntary system that has been maintaining it.

8. Administrative Burden: A Proportionality Concern

We raise this section to ask whether the Tier 3 instrument, applied to enrolled corridor land, is calibrated to produce conservation outcomes efficiently. The evidence shows it is not — and that a more precisely drawn map would achieve better conservation results with substantially less administrative cost.

8.1 Current Act 250 System Capacity

The LURB 2024 Annual Report (February 15, 2025) provides the following baseline:

Metric	CY 2024	Source (2024 Annual Report)
Applications deemed complete	352	p. 5
Decisions issued	363	p. 5
Minor applications (no hearing)	239 (66%)	p. 5
Major applications (hearing required)	11 (3%)	p. 5
Permits denied	1 of 363 (0.3%)	p. 5
Avg days: minor application	118 days	p. 7

Avg days: major application	472 days	p. 7
Full-time staff positions	34	p. 3
Citizen volunteer commissioners	~70	p. 3

8.2 The Corridor Parcel Scale Problem

58,013 total parcels in the VCD highest priority corridor — *any development on these parcels could trigger Tier 3 review*

23,778 enrolled corridor parcels facing new Act 250 jurisdiction — *stewardship families whose land is already being managed*

17,365 enrolled-only corridor parcels — no easement — *purely voluntary stewards with no stewardship recognition in the maps*

Vermont’s enrolled working lands families undertake intergenerational succession, construct farm buildings, build and maintain roads for timber management, and make improvements as part of ongoing stewardship. Under Tier 3 as currently drafted, any of these activities within the corridor could trigger Act 250 jurisdiction. The Road Rule’s conversion provision in Section 3.500 means a family building a house for a successor on enrolled land could trigger jurisdiction on farm roads built generations ago.

Even at a conservative 1% annual development activity rate across enrolled-only corridor parcels, Tier 3 would generate approximately 174 new Act 250 applications per year from this population alone — a 49% increase over the current annual volume of 352 complete applications, imposed on 34 staff already managing Act 181 implementation, Tier 1 designation, Tier 3 rulemaking, and Road Rule guidance simultaneously.

8.3 The Conservation Outcome Question

The 2024 Annual Report shows 99.7% of Act 250 applications are approved — only 1 denial in 363 decisions. On enrolled corridor land, which has existing management plans, county forester oversight, and demonstrated stewardship tenure measured in decades, the approval rate would approach 100%. The Board would be imposing 118-to-472 days of review time and applicant cost on applications that will overwhelmingly be approved. The conservation outcome on enrolled land is effectively zero. The trust cost is significant.

A Tier 3 map that concentrates jurisdiction on the 27% of the corridor that is genuinely at risk — where development pressure is real, ownership is often absentee, and no stewardship relationship with the state exists — would produce more conservation benefit, less administrative cost, and be more legally defensible than one that applies uniformly across the full 2,837,622-acre corridor.

8.4 The Map-Stage vs. Permitting-Stage Design Problem

The administrative burden analysis in Sections 8.1 through 8.3 assumes that enrolled working lands families will actually navigate the permitting process. The more likely outcome is worse: they will not. They will look at the Tier 3 map, see their land inside it, and either hire a lawyer to determine whether their project is exempt — or simply not do the thing they were planning to do. The chilling effect operates before any application is filed, and permitting-stage exemptions do not cure it.

This is a structural design problem, not an implementation detail. The draft rule contains jurisdictional exemptions for farming operations, forestry practices, and certain agricultural structures. Those exemptions are technically adequate for many of the activities enrolled working lands families undertake. But they operate at the permitting stage — after the map has already told a landowner they are in Tier 3. The sequence matters. A fourth-generation farmer in the corridor wants to build a house for a successor to take over the operation. She looks at the Tier 3 map, sees her enrolled land inside it, and faces a threshold question she cannot answer without professional help: does this project require an Act 250 permit? She may hire an attorney to find out. She may decide the uncertainty isn’t worth it. Either outcome — legal cost or foregone succession — is a real harm that the permitting-stage exemption was designed to prevent but structurally cannot reach.

The correct design is to reflect exemptions at the map stage, not the permitting stage, for the two categories of land where the conservation case for jurisdiction is weakest and the exemption rate would be highest: permanently conserved parcels and actively enrolled Current Use parcels.

Permanently conserved parcels present the clearest case. These lands carry recorded deed restrictions in perpetuity. Act 250 jurisdiction adds no conservation value whatsoever — the land cannot be developed regardless of whether it is in Tier 3. Including conserved parcels in the Tier 3 map does not protect anything. It produces only administrative friction: landowners uncertain about their status, staff fielding unnecessary inquiries, and the map appearing to cover land that is already protected by instruments stronger than Act 250 review. The VCGI Protected Lands Database identifies these parcels precisely. There is no technical barrier to excluding them from the map before it is finalized.

The statutory definition of habitat connector is itself instructive on this point. Under 10 V.S.A. §6001(47), a habitat connector means land that “links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes” — and explicitly includes “improvements constructed for farming, logging, or forestry purposes.” The statute recognizes that working lands infrastructure is compatible with, and indeed part of, corridor function. Enrolled working lands parcels within the corridor are not merely adjacent to the habitat connector. By the statute’s own definition, they are the habitat connector — the land that holds the ecological network together. Applying Act 250 jurisdiction to them as if they are unprotected land requiring regulatory intervention to prevent ecological harm inverts the statutory logic. These parcels are not a threat to the corridor. They are the corridor.

Enrolled Current Use parcels make the same case. The durability data in Section 6 answers the permanence question directly: 44 consecutive years of enrollment growth in a program with no exit penalty, 53.7% of enrolled-only corridor acres held voluntarily for 20 years or more, a median entry year of 2008. We have no data showing that withdrawal is a meaningful risk. Designing a regulatory backstop for a problem the data says does not exist is not good policy. The VCGI Current Use Program Properties dataset, published April 1, 2026, makes enrollment-based map-level exclusion technically feasible using maintained official data updated annually.

The VCGI Protected Lands Database and the Current Use dataset together identify, with precision, the land that is already stewarded. A map drawn to reflect that reality — excluding conserved and enrolled parcels, concentrating jurisdiction on the 765,005 genuinely at-risk acres — would be more accurate, more administratively manageable, and more likely to achieve the conservation outcomes Act 181 was designed to produce. The instrument should be calibrated to the problem it is meant to solve. Enrolled and conserved land is not that problem.

9. What We Are Asking the Board to Do

9.1 Incorporate Enrollment Status into Tier 3 Mapping Criteria

That discretion is meaningful. A conservation planning map asks where ecological resources exist. A regulatory map must ask something different: where does unprotected land exist that needs regulatory intervention because no other instrument is already providing protection? The statute’s “whether and how” language reflects a recognition that converting a planning framework into a regulatory instrument requires judgment — specifically, the judgment about which land within the ecological footprint actually needs the protection that regulation provides. Enrolled working lands parcels, held under state-approved stewardship plans with 44 consecutive years of demonstrated durability, are not that land. The statute gives the Board the authority to make that distinction. The data gives it the basis to do so.

The statute directs the Board to determine ‘whether and how’ to protect critical natural resources — it does not require uniform application regardless of existing stewardship status. (10 V.S.A. § 6001(46).) We ask the Board to use the data that already exists to draw a more precise map:

- Exclude parcels actively enrolled in Current Use from Tier 3 designation. These 23,778 parcels have demonstrated stewardship through the state’s own voluntary program. The VCGI Protected Lands Database and the UVA parcel layer — both ANR public datasets — provide everything needed to perform this exclusion before maps are finalized.
- Use the VCGI Protected Lands Database to exclude permanently conserved parcels from Tier 3 designation. These parcels are already protected by deed. Act 250 jurisdiction adds no conservation value and imposes administrative burden with zero conservation return.

- Concentrate Tier 3 jurisdiction on the two populations described below, each for distinct reasons grounded in the data.

One further development removes any remaining technical barrier to this approach. On April 1, 2026 — two days ago, during this comment period — VCGI published Current Use enrollment data as an official public dataset for the first time, available as a downloadable table and as a joined layer in the Vermont Parcel Viewer (Vermont Center for Geographic Information, “Current Use Data Now Available, Parcel Viewer Updated,” April 1, 2026: <https://vcgi.vermont.gov/news/current-use-data-now-available-parcel-viewer-updated>; dataset: <https://geodata.vermont.gov/datasets/VCGI::vt-data-current-use-program-properties/about>). The Tier 3 maps were drafted and this comment period was opened without this data being publicly available in joined form. It is now. VCGI notes the same methodological limitation we disclosed in Section 4.1 — that “an entire parcel’s area may not be enrolled and thus does not reflect the extent of CU enrolled areas on a map” and that “currently, there is no digital spatial data layer of current use enrolled areas statewide” — confirming that precise enrolled acreage calculation still requires the spatial Difference approach we used. But the attribute join needed to identify which corridor parcels are enrolled, and to perform the enrollment exclusion we are asking for, is now a published, maintained official dataset. ANR and LURB can replicate our parcel classification using the official VCGI Current Use data without any new data collection effort. There is no technical barrier to incorporating enrollment status into Tier 3 mapping criteria before the maps are finalized.

9.2 Target Tier 3 at the Sub-25-Acre High-Value Parcels Where Development Pressure Is Real

Of the 765,005 at-risk corridor acres, the sub-25-acre parcel population is where Tier 3 is most appropriate and most defensible. 90.5% of at-risk corridor parcels — 25,773 of 28,481 — fall below the 25-acre Current Use enrollment minimum. They are structurally ineligible for the voluntary stewardship pathway regardless of owner intent. This is important context for the durability argument in Section 6: the at-risk population is not a failure of the voluntary compact. It is a population the voluntary compact cannot reach by design. And the data shows that development pressure is concentrated precisely here:

25,773 at-risk parcels under 25 acres — no Current Use pathway exists — *structurally ineligible for voluntary enrollment*

\$12,664 average land value per acre — *7.3x the \$1,739/acre average for enrolled corridor land*

\$11,221 median land value per acre — *reflecting residential and resort development premium*

\$8.0B total assessed real value — *overwhelmingly vacation, residential, and investment properties*

These parcels are concentrated in resort and amenity corridors — Stowe at \$95,398/acre average, Ludlow at \$48,912/acre with 87% out-of-state ownership, Dorset, Manchester, Dover, Stratton, Killington. The land values alone confirm that these are not working lands facing stewardship gaps. They are high-value residential and vacation properties facing genuine development pressure. There is no voluntary pathway available to them. Tier 3 Act 250 jurisdiction, calibrated to this population, is the right instrument.

If the Board’s Tier 3 mapping criteria were sharpened to prioritize high land value per acre, high out-of-state ownership rates, and sub-25-acre parcels within corridor blocks — rather than drawing a uniform boundary around the entire 2,837,622-acre corridor — the map would be more precise, more effective, more administratively manageable, and more legally defensible.

9.3 Create a Voluntary Pathway for the 25+ Acre Working Lands Parcels

The 2,708 at-risk parcels of 25 acres or more tell a fundamentally different story. These parcels are already eligible for Current Use enrollment — they meet the acreage threshold today. And their land values reflect working lands economics, not development pressure:

2,708 at-risk parcels of 25+ acres — eligible for Current Use today — *168,450 ACRESGL acres with no enrollment barrier*

\$2,523 average land value per acre — *comparable to the \$1,739/acre average for enrolled corridor land*

1,537 in-state Vermont families holding 25+ acres at-risk — 91,390 acres — working lands in character, enrollment gap in practice

The land value comparison is decisive. The sub-25-acre at-risk parcels average \$12,664/acre — development premium pricing. The 25+ acre at-risk parcels average \$2,523/acre — essentially the same as enrolled working lands at \$1,739/acre. These are not speculators or resort investors. They are Vermont landowners holding parcels that look economically identical to the enrolled working lands around them, who simply have not yet enrolled.

Tier 3 Act 250 jurisdiction is the wrong instrument for this population. Applying it here would impose regulatory burden on Vermont families whose land is working lands in character — while the resort corridor parcels that genuinely need regulatory attention receive no more scrutiny than their enrolled neighbors.

The right instrument is a third forestland enrollment category within Current Use — a Wildlife Corridor Forestland category sitting alongside the existing Managed Forestland and Reserve Forestland categories. The structural problem is that Vermont's two existing categories leave a large class of forest stewards without a home. Managed Forestland requires a forest management plan oriented toward “growing and harvesting repeated forest crops” — a timber production framework that does not fit a landowner who wants to steward their forest for wildlife habitat, water quality, and ecological connectivity without committing to a harvest schedule. Reserve Forestland, added by Act 146 in 2022, sounds like it should fit, but its eligibility criteria are very narrow: parcels under 100 acres must have 50% or more of enrolled land meeting sensitive and significant ecological conditions. Most corridor forest parcels — even ecologically valuable ones — cannot clear that bar. The result is a gap that no existing category reaches: the Vermont family that owns 40 or 60 or 80 acres of corridor forest, wants to steward it thoughtfully, has no interest in development, but also has no interest in a timber harvest schedule and cannot qualify for Reserve Forestland. They are ineligible for the tax benefit that would make holding that land financially sustainable. They show up in our data as 25+ acre at-risk corridor parcels — parcels whose land values are indistinguishable from enrolled working lands, whose owners are overwhelmingly in-state Vermont families, but who have no enrollment pathway that fits their stewardship intent. A Wildlife Corridor Forestland category would address this directly. It would require a stewardship plan — not a forestry plan — oriented toward ecological function: habitat connectivity, water quality, invasive species management, and wildlife corridor maintenance. Plans would be approved by the county forester or a qualified resource professional. Active timber harvesting would not be required. Eligibility would be tied to location within a VCD priority corridor block, making the corridor science the enrollment criterion rather than the regulatory trigger. Vermont's 44-year unbroken record of enrollment growth — in a program with no exit penalty — is the strongest evidence available that the voluntary compact works. The 25+ acre at-risk population is an enrollment gap, not a stewardship failure. It calls for an enrollment solution, and the enrollment solution it calls for is a new category, not a new regulation.

9.4 Recommend the Corridor Tier in the Rulemaking Report

Creating a Wildlife Corridor Forestland category within Current Use is outside LURB's direct authority. But recommending it is within the Board's authority — and Act 181 requires the Board to deliver a Tier 3 rulemaking report to the Legislature. We ask the Board to include in that report an explicit recommendation along two tracks. The primary ask is a new third forestland enrollment category — Wildlife Corridor Forestland — that requires a stewardship plan oriented toward ecological function rather than timber production, with eligibility tied to location within VCD priority corridor blocks. This addresses the 25+ acre at-risk population whose stewardship intent is present but whose enrollment pathway is absent. It does not require restructuring the existing Managed Forestland or Reserve Forestland categories — it simply adds a third option for a population those two categories cannot reach. The secondary ask, which can be advanced independently, is a reduced acreage minimum for corridor enrollment within the Wildlife Corridor Forestland category. The case for it has three parts. First, scale: the same 90.5% figure that identifies the at-risk population in Section 7 is the ecological argument for this ask. If nine of ten genuinely at-risk corridor parcels cannot access the voluntary stewardship pathway because of the 25-acre threshold, the threshold is structurally working against the corridor's ecological function — excluding precisely the population most in need of a stewardship incentive. Second, behavioral evidence: these sub-25-acre parcels are inside VCD highest priority connectivity blocks, which by definition are mapped as contiguous unfragmented forest. They are still forested. If their owners had development intent, the forest would already show fragmentation. Intact forest cover on high-value land is behavioral evidence of stewardship disposition — owners making de facto conservation choices without any program relationship with the state to show for it. Third, program logic: if the purpose of the Wildlife Corridor Forestland category is ecological function within VCD-mapped corridor blocks, the acreage threshold should be calibrated to that ecological goal rather than inherited from a timber production framework designed for a different purpose. A lower threshold for parcels within corridor blocks — whether set at 10 acres, 15 acres, or another ecologically defensible minimum — would extend

the voluntary pathway to the structurally ineligible population. This is a separate and somewhat larger legislative step, but the Board's endorsement of the principle would carry weight.

Together, these two recommendations would give the Legislature a concrete, sequenced path: add the Wildlife Corridor Forestland category first to capture the willing 25+ acre landowners already eligible but lacking a fitting category; pursue the acreage threshold change as a follow-on to reach the sub-25-acre population. A recommendation from LURB — the body charged with implementing Act 181's conservation goals — that the voluntary stewardship pathway is the right instrument for enrolled and near-eligible corridor land would accurately reflect what the spatial data shows: that 73% of the corridor is already being stewarded voluntarily, that the voluntary system has a 44-year track record of success, and that the remaining 27% divides cleanly into two populations — one where Tier 3 fits, and one where a new Wildlife Corridor Forestland category fits. The Board's rulemaking report is an opportunity to make that case precisely, on the record, to the people who can act on it.

10. Conclusion

Vermont's wildlife corridor is not failing. It is being held by enrolled working lands families who have renewed their voluntary commitment year after year for up to four decades. Our spatial analysis, built from ANR's own public datasets, shows that 73% of the highest priority corridor — 2,072,617 acres — is already enrolled in Current Use or permanently conserved. The genuinely at-risk land is 765,005 acres (27%), concentrated in specific towns, ownership types, and land value ranges that the data clearly identifies.

The 36-percentage-point gap between ANR's own `cons_pct` figure (36.8% permanently conserved) and our 73% enrolled-or-conserved figure is not a data error. It is the direct consequence of building Tier 3 maps on block designations derived from an ecological quality framework that was never designed to incorporate enrollment status. The VCD methodology identifies where corridor function exists and which blocks are most ecologically significant — not who is maintaining them or which land lacks stewardship protection. Converting that ecological quality map into a regulatory instrument without asking which ecologically valuable land actually needs regulatory protection is the design problem at the heart of the current draft.

When Act 181 drew Tier 3 maps from the VCD Highest Priority Connectivity Block designations in 2024, it built a regulatory boundary on a framework that had never been designed to see voluntary stewardship. At no step in that process did anyone explicitly decide that Vermont's 2.57 million enrolled acres should be invisible. The invisibility was structural — and it has now been encoded into a regulatory map with real consequences for real families.

ANR's own VCD implementation working group acknowledged this plainly at the 2024 UVM FEMC Annual Meeting: "(And remember permanent land conservation is just one of many tools for achieving VCD.)" The science always understood that permanent conservation is one instrument among many. The enrolled working lands families who have been holding the corridor together for 44 consecutive years of enrollment growth understood this. What the Tier 3 maps do not reflect is the voluntary stewardship contribution that the VCD itself always relied upon.

The Board's mandate is to determine 'whether and how' to protect critical natural resources — and the data now exists to do that with precision. Exclude permanently conserved parcels: they are already protected by instruments stronger than Act 250 review. Exclude actively enrolled Current Use parcels: the spatial analysis shows they are already being stewarded, the VCGI dataset published April 1, 2026 makes the exclusion technically feasible. Concentrate Tier 3 jurisdiction on the 765,005 genuinely at-risk acres — specifically the sub-25-acre high-value parcels in resort and amenity corridors where development pressure is real, ownership is often absentee, and no voluntary stewardship pathway exists. And recommend to the Legislature a Wildlife Corridor Forestland category within Current Use for the 25+ acre working lands parcels where the right instrument is a stewardship plan, not a permit.

Vermont's conservation tradition is built on both permanence and voluntary stewardship — a Both/And framework that has produced the most successful working lands program in the northeastern United States. The Tier 3 rulemaking is an opportunity to honor that tradition. It is also, if the maps are not corrected, an opportunity to undermine it in a way that will be very difficult to undo.

We welcome questions about our methodology and are happy to share our full dataset, QGIS project files, and the at-risk parcel CSV with the Board or ANR upon request.

Respectfully submitted,

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